

AMENDED IN SENATE MARCH 18, 2013

**SENATE BILL**

**No. 148**

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**Introduced by Senator Anderson**

January 31, 2013

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~~An act to amend Section 14311 of the Elections Code, relating to elections. An act to amend Sections 359.5, 8141.5, 8142, 8150, 9083.5, and 15452 of the Elections Code, relating to elections.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 148, as amended, Anderson. ~~Provisional voting. Primary elections: voter-nominated offices.~~

*Existing provisions of the California Constitution provide that all voters may vote for any candidate at a voter-nominated primary election for congressional and state elective offices, without regard to the political party preference of the candidate or the voter. Pursuant to these provisions, the top 2 vote-getters in a voter-nominated primary election, regardless of party preference, compete in the ensuing general election.*

*Existing law provides generally for the conduct of primary elections. Existing statutory law implements the above-mentioned constitutional provisions relating to voter-nominated primary elections for congressional and state elective offices, including the provision that the top 2 vote-getters compete in the general election, regardless of party preference.*

*This bill would provide that a candidate for State Senator or Member of the Assembly who receives at least a majority of the votes cast for that office in the primary election shall be declared elected to that office, and that no general election would be held for that office. The bill would also make conforming changes.*

*This bill would specify that its provisions become operative only if SCA \_\_\_\_ of the 2013–14 Regular Session is approved by the voters.*

~~Existing law allows a voter who has moved from one address to another within the same county and has not reregistered to vote at the new address to vote by provisional ballot on the day of the election, as specified.~~

~~This bill would make technical, nonsubstantive changes to these provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 359.5 of the Elections Code is amended*  
2     *to read:*

3     359.5. (a) “Voter-nominated office” means a congressional  
4     or state elective office for which a candidate may choose to have  
5     his or her party preference or lack of party preference indicated  
6     upon the ballot. A political party or party central committee shall  
7     not nominate a candidate at a state-conducted primary election for  
8     a voter-nominated office. The primary *election* conducted for a  
9     voter-nominated office does not serve to determine the nominees  
10    of a political party but serves to winnow the candidates for the  
11    general election to the candidates receiving the highest or second  
12    highest number of votes cast at the primary ~~election~~. *election,*  
13    *except that, if a candidate for State Senator or Member of the*  
14    *Assembly receives at least a majority of the votes cast for that*  
15    *office at the primary election, that candidate shall be declared the*  
16    *elected candidate for that office.* The following offices are  
17    voter-nominated offices:

- 18    (1) Governor.
- 19    (2) Lieutenant Governor.
- 20    (3) Secretary of State.
- 21    (4) Controller.
- 22    (5) Treasurer.
- 23    (6) Attorney General.
- 24    (7) Insurance Commissioner.
- 25    (8) Member of the State Board of Equalization.
- 26    (9) United States Senator.
- 27    (10) Member of the United States House of Representatives.

1 (11) State Senator.

2 (12) Member of the Assembly.

3 (b) This section does not prohibit a political party or party  
4 central committee from endorsing, supporting, or opposing a  
5 candidate for an office listed in subdivision (a).

6 *SEC. 2. Section 8141.5 of the Elections Code is amended to*  
7 *read:*

8 8141.5. (a) Except as provided in subdivision (b) of *this*  
9 *section and in subdivision (b) of Section 8142*, only the candidates  
10 for a voter-nominated office who receive the highest or second  
11 highest number of votes cast at the primary election shall appear  
12 on the ballot as candidates for that office at the ensuing general  
13 election. More than one candidate with the same party preference  
14 designation may participate in the general election pursuant to this  
15 subdivision. Notwithstanding the designation made by the  
16 candidate pursuant to Section 8002.5, no candidate for a  
17 voter-nominated office shall be deemed to be the official nominee  
18 for that office of any political party, and no party is entitled to have  
19 a candidate with its party preference designation participate in the  
20 general election unless that candidate is one of the candidates  
21 receiving the highest or second highest number of votes cast at the  
22 primary election.

23 (b) *If a candidate for State Senator or Member of the Assembly*  
24 *receives at least a majority of all votes cast for that office at the*  
25 *primary election, he or she shall be declared elected, and no*  
26 *general election shall be held for that office. The term of office for*  
27 *a candidate declared elected pursuant to this subdivision shall*  
28 *commence at the time that the term of office would have*  
29 *commenced if the candidate had been elected at the general*  
30 *election.*

31 *SEC. 3. Section 8142 of the Elections Code is amended to read:*

32 8142. (a) In the case of a tie vote, nonpartisan candidates  
33 receiving the same number of votes shall be candidates at the  
34 ensuing general election if they qualify pursuant to Section 8141  
35 whether or not there are more candidates at the general election  
36 than prescribed by this article. In no case shall the tie be determined  
37 by lot.

38 (b) In the case of a tie vote among candidates at a primary  
39 election for a voter-nominated office, the following applies:

1 (1) All candidates receiving the highest number of votes cast  
2 for any candidate shall be candidates at the ensuing general election  
3 whether or not there are more candidates at the general election  
4 than prescribed by this article.

5 (2) Notwithstanding Section 8141.5, if a tie vote among  
6 candidates results in more than one primary candidate qualifying  
7 for the general election pursuant to subdivision (a), candidates  
8 receiving fewer votes shall not be candidates at the general election,  
9 even if they receive the second highest number of votes cast.

10 (3) If only one candidate receives the highest number of votes  
11 cast but there is a tie vote among two or more candidates receiving  
12 the second highest number of votes cast, each of those second-place  
13 candidates shall be a candidate at the ensuing general election  
14 along with the candidate receiving the highest number of votes  
15 cast, regardless of whether there are more candidates at the general  
16 election than prescribed by this article. *This paragraph shall not*  
17 *apply to a primary election for the office of a State Senator or*  
18 *Member of the Assembly if the candidate who receives the highest*  
19 *number of votes cast for that office is declared elected pursuant*  
20 *to subdivision (b) of Section 8141.5.*

21 (4) In no case shall the tie be determined by lot.

22 SEC. 4. Section 8150 of the Elections Code is amended to read:

23 8150. The certificate of the Secretary of State showing  
24 candidates nominated or selected at a primary election, *or declared*  
25 *elected pursuant to subdivision (b) of Section 8141.5*, and justices  
26 of the Supreme Court and courts of appeal to appear on the general  
27 elections ballot, shall be in a form prescribed by the Secretary of  
28 State.

29 SEC. 5. Section 9083.5 of the Elections Code is amended to  
30 read:

31 9083.5. (a) If a candidate for nomination or election to a  
32 partisan office will appear on the ballot, the Secretary of State shall  
33 include in the state ballot pamphlet a written explanation of the  
34 election procedure for such offices. The explanation shall read  
35 substantially similar to the following:

36  
37 PARTY-NOMINATED/PARTISAN OFFICES

38 Under the California Constitution, political parties may formally  
39 nominate candidates for party-nominated/partisan offices at the  
40 primary election. A candidate so nominated will then represent

that party as its official candidate for the office in question at the ensuing general election and the ballot will reflect an official designation to that effect. The ~~top-votegetter~~ *vote-getter* for each party at the primary election is entitled to participate in the general election. Parties also elect officers of official party committees at a partisan primary.

No voter may vote in the primary election of any political party other than the party he or she has disclosed a preference for upon registering to vote. However, a political party may authorize a person who has declined to disclose a party preference to vote in that party's primary election.

(b) If ~~any~~ *a* candidate for nomination or election to a voter-nominated office will appear on the ballot, the Secretary of State shall include in the state ballot pamphlet a written explanation of the election procedure for such offices. The explanation shall read substantially similar to the following:

#### VOTER-NOMINATED OFFICES

Under the California Constitution, political parties are not entitled to formally nominate candidates for voter-nominated offices at the primary election. A candidate nominated for a voter-nominated office at the primary election is the nominee of the people and not the official nominee of any party at the following general election. A candidate for nomination or election to a voter-nominated office shall have his or her party preference, or lack of party preference, reflected on the primary and general election ballot, but the party preference designation is selected solely by the candidate and is shown for the information of the voters only. It does not constitute or imply an endorsement of the candidate by the party designated, or affiliation between the party and candidate, and no candidate nominated by the qualified voters for any voter-nominated office shall be deemed to be the officially nominated candidate of any political party. The parties may list the candidates for voter-nominated offices who have received the official endorsement of the party in the sample ballot.

All voters may vote for any candidate for a voter-nominated office, provided they meet the other qualifications required to vote for that office. The top two ~~votegetters~~ *vote-getters* at the primary election advance to the general election for the voter-nominated

1 office, even if both candidates have specified the same party  
2 preference designation. *However, if a candidate for State Senator*  
3 *or Member of the Assembly receives at least a majority of the votes*  
4 *cast for that office in the primary election, that candidate shall be*  
5 *declared elected, and no general election shall be held for that*  
6 *office.* No party is entitled to have a candidate with its party  
7 preference designation participate in the general election unless  
8 ~~such~~ that candidate is one of the two highest ~~votegetters~~  
9 *vote-getters* at the primary election.

10  
11 (c) If ~~any~~ a candidate for nomination or election to a nonpartisan  
12 office, other than judicial office, ~~shall~~ will appear on the ballot,  
13 the Secretary of State shall include in the state ballot pamphlet a  
14 written explanation of the election procedure for such offices. The  
15 explanation shall read substantially similar to the following:

16  
17 NONPARTISAN OFFICES

18 Under the California Constitution, political parties are not entitled  
19 to nominate candidates for nonpartisan offices at the primary  
20 election, and a candidate nominated for a nonpartisan office at the  
21 primary election is not the official nominee of any party for the  
22 office in question at the ensuing general election. A candidate for  
23 nomination or election to a nonpartisan office may NOT designate  
24 his or her party preference, or lack of party preference, on the  
25 primary and general election ballot. ~~The~~ *If a candidate for a*  
26 *nonpartisan office at a primary election receives votes on at least*  
27 *a majority of all the ballots cast for that office, the candidate shall*  
28 *be elected to that office, and the office shall not appear on the*  
29 *ballot at the ensuing general election. Otherwise, the top two*  
30 ~~votegetters~~ *vote-getters* at the primary election advance to the  
31 general election for the nonpartisan office.

32  
33 (d) Posters or other printed materials containing the notices  
34 specified in subdivisions (a) to (c), inclusive, shall be included in  
35 the precinct supplies pursuant to Section 14105.

36 SEC. 6. Section 15452 of the Elections Code is amended to  
37 read:

38 15452. The person who receives a plurality of the votes cast  
39 for any office is elected or nominated to that office in any election,  
40 ~~except:~~ *except with respect to the following:*

1   ~~(a)~~

2   (1) An election for which different provision is made by any  
3 city or county charter.

4   ~~(b)~~

5   (2) A municipal election for which different provision is made  
6 by the laws under which the city is organized.

7   ~~(c)~~

8   (3) The election of local officials in primary elections as  
9 specified in Article 8 (commencing with Section 8140) of *Chapter*  
10 *1* of Part 1 of Division 8.

11   ~~(d)~~

12   (4) The nomination of candidates for *a* voter-nominated office  
13 at the primary election to participate in the general election for  
14 that office as specified in Article 8 (commencing with Section  
15 8140) of *Chapter 1* of Part 1 of Division ~~8~~: 8, *except as to the*  
16 *nomination of a candidate for State Senator or Member of the*  
17 *Assembly where a candidate receives at least a majority of the*  
18 *votes cast for that office in a primary election.*

19   SEC. 7. *This act shall become operative only if Senate*  
20 *Constitutional Amendment \_\_\_\_ of the 2013–14 Regular Session*  
21 *is approved by the voters.*

22   SECTION 1. ~~Section 14311 of the Elections Code is amended~~  
23 ~~to read:~~

24   ~~14311. (a) A voter who has moved from one address to another~~  
25 ~~within the same county and who has not reregistered to vote at~~  
26 ~~that new address may, at his or her option, vote on the day of the~~  
27 ~~election at the polling place at which he or she is entitled to vote~~  
28 ~~based on his or her current residence address, or at the office of~~  
29 ~~the county elections official or other central location designated~~  
30 ~~by that elections official. The voter shall be reregistered at the~~  
31 ~~place of voting for future elections.~~

32   ~~(b) Voters casting ballots pursuant to this section shall be~~  
33 ~~required to vote by provisional ballot, as provided in Section 14310.~~